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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,064	04/08/2004	Sharalyn S. Ramm	P214543	9199
30662	7590	12/19/2005	EXAMINER	
SCHACHT LAW OFFICE, INC. SUITE 202 2801 MERIDIAN STREET BELLINGHAM, WA 98225-2412			CAMPBELL, KELLY E	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,064

Applicant(s)

RAMM, SHARALYN S.

Examiner

Kelly E. Campbell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/12/2004</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the pad support" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "first and second frame assemblies" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Becker (5,158,313).

Becker teaches a walker system having:

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a frame (12) including a pad support (124); a handle (68) supported by the frame; a plurality of wheel assemblies (40,152) for supporting the frame, a pad assembly including a pad member (114) and a pad post (120) where the pad support (124) slidably supports the pad post (120) such that a position of the pad member (114) relative to the frame (12) can be changed;

and a post locking member (132) for securing the pad post (120) relative to the pad support (124) to substantially fix the position of the pad member (114) relative to the frame (12);

the handle including a first and second handle posts (66) and a handle member (68);

the frame further includes first and second handle supports (20A,20B),

where the first and second handle supports(20A,20B) slidably supports the handle posts (66) such that a position of the handle member (68) relative to the frame can be changed; and the walker system further includes first and second handle locking members (70) for securing the first and second handle posts (66) relative to the handle support (20A,20B) to substantially fix the position of the handle member (68) relative to the frame (12);

and first and second front leg portions (30A,30B) and the first and second leg portions (146A,146B);

the plurality of wheel assemblies (40,152) wherein the first and second front wheel assemblies (40) are supported by first and second front leg portions (30A,30B),

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and the first and second rear wheel assemblies (152) are supported by first and second rear leg portions (146A,146B).

With regards to claims 17-20, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

Claims 1-11,13 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Renteria teaches a walker system (20) having:

- a frame (22) including a pneumatic cylinder (44) consisting of a pad support (silent) and pad post (silent);

- a handles (64) supported by the frame;

- a plurality of wheel assemblies (34,42) for supporting the frame (22),

- a pad assembly (44,45,46,48,50,51) including:

- a pad member (48)and the pneumatic cylinder (44) wherein the pad support (silent) slidably supports the pad post (silent) such that a position of the pad member (48) relative to the frame can be changed, see Column 7, lines 1-24;

- and a post locking member (46) for securing the pad post relative to the pad support to substantially fix the position of the pad member (48) relative to the frame;

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the handles including a first and second handle post (78) and a handle member (64);

further including a first and second handle support (80),

where the at least one handle support (80) slidably supports the handle post (78) such that a position of the handle member (64) relative to the frame can be changed; and the walker system further includes a handle locking member (silent) for securing the handle post (78) relative to the handle support (80) to substantially fix the position of the handle member relative to the frame, see Column 9, lines 13-20;

first and second front leg portions (36) supporting first and second front wheel assemblies (34);

first and second rear leg portions (52) supporting first and second rear wheel assemblies (42);

at first and second hinge member (88) extending through a first and second hinge portion (the most forward "portions" of straight members 28) and also extending through third and fourth hinge portions (the lower-most "portion" of handle member 80) such that the front frame and the handle frame assemblies may be rotated relative to each other to place the frame in one of the use or storage configuration, see Column 9, lines 31-35;

wherein the first hinge member (88L) extends through the first and third hinge portions (front left portion of member 28 and lower left portion of 80), and wherein the second hinge member extends through the second and fourth hinge portions (front right portion of member 28 and lower right portion of 80);

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further including a first and second locking assembly (90) of selectively locking the fame in the use configuration, see Column 9, lines 34-38;

wherein the pad support assembly (44) is rigidly connected to the first and second handle frame side members (24) via the frame assembly (22), and the wheel support;

wherein front and rear brace members (30) rigidly connect to the first and second handle frame side members (24L,R,26L,R).

With regards to claims 17-20, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Becker (5158,313) as applied to claim 1 above, and further in view of Holt et al (US 1,288,588).

Becker teaches all aspects of the claimed invention as discussed above for claim 1, except the pad member of the walker being offset relative to the pad post.

Holt teaches a walker vehicle including a pad post (30) slidably supported by pad support (28) such that the position of the pad (31) can be changed relative to the frame of the walker, and further, wherein the pad (31) is offset, relative to the pad post (30), see Figures 1 and 2 and Page 2, lines 17-26.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pad placement of the walker taught by Becker to be offset as taught by Holt et al, in order to support either a right or left limb in particular.

Allowable Subject Matter

Claims 12 and 14-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose the combination of limitations as discussed above and further including first and second handle frame side members rigidly connecting to the pads support assembly and wheel support members, wherein the wheel support member defines the first and second front leg portions or first and second front portions extending from hinge portions to the first and second front leg portions of the walker system frame. A combination of these and other limitations have not been reasonably found within the prior art.

Conclusion

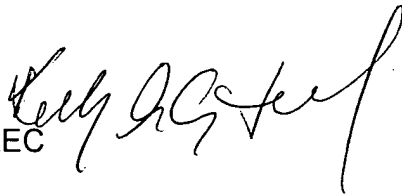
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Whiting teaches a walker vehicle having an adjustable pad member. Kashmere et al teaches a child walker device having an adjustable seat and handle members. Avril teaches a walker device. Brandenfels teaches a collapsible utility cart. Stone teaches an orthopedic walker with collapsible handles and seat pad member. David teaches a walker device. Accetta teaches a walker having a seat pad member and hinge assembly. Che teaches a walker having a hinge assembly and adjustable handle. Seeger teaches a walker system having an adjustable seat. Uchiyama teaches a walker device. Corneu teaches a collapsible walker having adjustable handles and seat pad member. Sung teaches a walker device. Miller teaches a walker having an adjustable handle, and adjustable seat member.

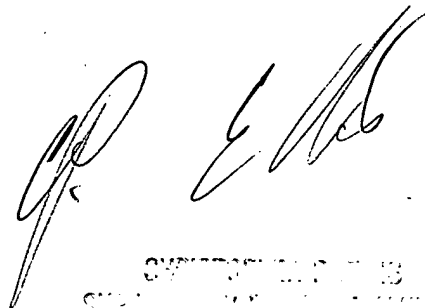
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E. Campbell whose telephone number is (571) 272-6693. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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